



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

C-489-817

Certain Oil Country Tubular Goods from the Republic of Turkey: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) determines that countervailable subsidies are being provided to producers and exporters of certain oil country tubular goods (OCTG) from the Republic of Turkey (Turkey). For information on the estimated subsidy rates, see the “Suspension of Liquidation” section of this notice.

DATES: EFFECTIVE DATE: [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Jennifer Meek or Shane Subler, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2778, and (202) 482-0189, respectively.

SUPPLEMENTARY INFORMATION

Background

The petitioners in this investigation are Maverick Tube Corporation; United States Steel Corporation; Boomerang Tube; Energex Tube, a division of JMC Steel Group; Northwest Pipe Company; Tejas Tubular Products; TMK IPSCO; Vallourec Star, L.P.; and Welded Tube USA Inc. In addition to the Government of the Republic of Turkey (GOT), the mandatory respondents in this investigation are: (1) Borusan Mannesmann Boru Sanayi ve Ticaret A.S., Borusan Istikbal Ticaret, Borusan Mannesmann Boru Yatirim Holding A.S., and Borusan

Holding A.S.(collectively, Borusan); and (2) Tosçelik Profil ve Sac Endustrisi A.S., Tosyali Dis Ticaret A.S., Tosyali Elektrik Enerjisi Toptan Satis Ith. Ihr. A.S., Tosyali Holding A.S., and Tosyali Demir Celik San. A.S. (collectively, Toscelik). The period of investigation (POI) for which we are measuring subsidies is January 1, 2012, through December 31, 2012.

Case History

The events that occurred since the Department published the *Preliminary Determination*¹ on December 23, 2013, and the *Preliminary Determination of Critical Circumstances*² on January 27, 2014, are discussed in the Issues and Decision Memorandum.³ The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at <http://iaaccess.trade.gov>, and is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

¹ See *Certain Oil Country Tubular Goods From the Republic of Turkey: Preliminary Negative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Determination*, 78 FR 77420 (December 23, 2013) (*Preliminary Determination*).

² See *Certain Oil Country Tubular Goods from India and Turkey: Preliminary Determination of Critical Circumstances in the Countervailing Duty Investigations*, 79 FR 4333 (January 27, 2014) (*Preliminary Determination of Critical Circumstances*).

³ See Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, regarding "Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Certain Oil Country Tubular Goods from the Republic of Turkey," dated concurrently with this notice (Issues and Decision Memorandum).

Scope Comments

In accordance with the preamble to the Department's regulations,⁴ in the *Initiation Notice*,⁵ we set aside a period of time for parties to raise issues regarding product coverage. We encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice*. As described at pages 3-4 of the decision memorandum accompanying the *Preliminary Determination*, on August 12, 2013, WSP Pipe Co., Ltd. (WSP) (the sole mandatory respondent in the concurrent antidumping duty investigation involving OCTG from Thailand) submitted scope comments to the Department regarding "pierced billets." WSP asked the Department to determine that such merchandise was outside of the scope of this and the other OCTG investigations. The Department addressed WSP's scope comments in the preliminary determination of the corresponding antidumping duty investigation to this case.⁶ As stated in the decision memorandum accompanying the *AD Preliminary Determination*, we preliminarily determined not to change the scope language as presented in the *Initiation Notice*. No party submitted comments on this issue subsequent to the *AD Preliminary Determination*. Therefore, we determined not to change the scope language as presented below and in the *Initiation Notice*.

Scope of the Investigation

The merchandise covered by the investigation is certain oil country tubular goods (OCTG), which are hollow steel products of circular cross-section, including oil well casing and tubing, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, regardless of end finish (*e.g.*, whether or not plain end, threaded, or threaded and

⁴ See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997).

⁵ See *Certain Oil Country Tubular Goods From India and Turkey: Initiation of Countervailing Duty Investigations*, 78 FR 45502 (July 29, 2013) (*Initiation Notice*).

⁶ See *Certain Oil Country Tubular Goods From the Republic of Turkey: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances, and Postponement of Final Determination*, 79 FR 10484 (February 25, 2014) ("*AD Preliminary Determination*"), and accompanying decision memorandum at pages 5-7.

coupled) whether or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished (including limited service OCTG products) or unfinished (including green tubes and limited service OCTG products), whether or not thread protectors are attached. The scope of the investigation also covers OCTG coupling stock. For a complete description of the scope of the investigation, *see* Appendix I to this notice.

Critical Circumstances

In the *Preliminary Determination of Critical Circumstances*, the Department concluded that critical circumstances existed with respect to imports of OCTG from Turkey produced and/or exported by Borusan, Toscelik, and all other producers/exporters, in accordance with section 703(e)(1) of the Tariff Act of 1930, as amended (the Act). Our analysis of the results of verification and the comments submitted by interested parties has not led us to change our findings from the *Preliminary Determination of Critical Circumstances*. Therefore, in accordance with section 705(a)(2) of the Act, we continue to find that critical circumstances exist with respect to imports of OCTG from Turkey produced and/or exported by Borusan, Toscelik, and all other producers/exporters.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Issues and Decision Memorandum, which is hereby adopted by this notice. A list of the issues that parties have raised, and to which we responded in the Issues and Decision Memorandum, is attached to this notice as Appendix II.

Use of Adverse Facts Available

For purposes of this final determination, we continue to rely on facts available and to draw an adverse inference, in accordance with sections 776(a) and (b) of the Act, to determine

the subsidy rate for Borusan's purchases of hot-rolled steel (HRS) for less than adequate remuneration. Borusan failed to report its HRS purchases for the Halkali and Izmit mills as requested by the Department in two different questionnaires. Because of Borusan's failure to report these purchases, necessary information regarding Borusan's HRS purchases for these facilities is not on the record. Thus, we determine that we must rely on facts otherwise available in this final determination in calculating Borusan's CVD rate.⁷ Moreover, we find that Borusan failed to cooperate by not acting to the best of its ability and, consequently, an adverse inference is warranted in the application of facts available.⁸ As adverse facts available, we, therefore, inferred that Borusan purchased all HRS for its Halkali and Izmit mills at the lowest price on the record for its Gemlik mill's HRS purchases from Eregli Demir ve Celik Fabrikalari T.A.S. (Erdemir) and Iskenderun Demir ve Celik A.S. (Isdemir). We also inferred as adverse facts available that Borusan purchased the same quantity of HRS during the POI for its Halkali and Izmit mills as the mills' reported annual production capacities. For a full discussion of these issues, *see* the Issues and Decision Memorandum, at "Use of Facts Otherwise Available and Adverse Facts Available."

Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i) of the Act, we calculated a rate for each company respondent. Section 705(c)(5)(A)(i) of the Act states that, for companies not individually investigated, we will determine an "all others" rate equal to the weighted-average countervailable subsidy rates established for exporters and producers individually investigated,

⁷ See sections 776(a)(1), (a)(2)(A) and (a)(2)(B) of the Act (stating that the Department may make a determination based on facts available if "(1) necessary information is not available on the record" or "(2) an interested party" "(A) withholds information that has been requested" by the Department or "(B) fails to provide such information by the deadline for the submission of the information").

⁸ See section 776(b) of the Act (permitting the Department to "use an inference that is adverse to the interests of the party in selecting from among the facts otherwise available").

excluding any zero and *de minimis* countervailable subsidy rates, and any rates determined entirely under section 776 of the Act.

Notwithstanding the language of section 705(c)(5)(A)(i) of the Act, we have not calculated the “all others” rate by weight averaging the rates of Borusan and Toscelik because doing so risks disclosure of proprietary information. Therefore, we calculated a simple average of Borusan’s and Toscelik’s rates. Since both Borusan and Toscelik received countervailable export subsidies and the “all others” rate is an average based on the individually investigated respondents, the “all others” rate includes export subsidies.

We determine the total estimated net countervailable subsidy rates to be:

Company	Subsidy Rate
Borusan Istikbal Ticaret, Borusan Mannesmann Boru Sanayi, Borusan Mannesmann Boru Yatirim Holding A.S., and Borusan Holding A.S.	15.89 percent
Tosyali Dis Ticaret A.S, Tosçelik Profil ve Sac Endustrisi A.S., Tosyali Elektrik Enerjisi Toptan Satis Ith. Ihr. A.S., Tosyali Demir Celik San. A.S., and Tosyali Holding A.S.	2.53 percent
All Others	9.21 percent

In accordance with section 705(c)(1)(C) of the Act, we are directing U.S. Customs and Border Protection (CBP) to suspend liquidation of all imports of the subject merchandise from Turkey that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*, and to require a cash deposit for such entries of merchandise in the amounts indicated above. The suspension of liquidation will remain in effect until further notice. Further, as a result of the *Preliminary Determination of Critical Circumstances* and this final affirmative determination of critical circumstances, we are instructing CBP to suspend liquidation of all entries of subject merchandise from Borusan,

Toscelik, and all other producers/exporters of OCTG from Turkey which were entered or withdrawn from warehouse for consumption 90 days prior to the date of publication of this notice in the *Federal Register*, pursuant to section 703(e)(2) of the Act.

As our final determination is affirmative and our preliminary determination was negative, in accordance with section 705(b)(3) of the Act, the U.S. International Trade Commission (ITC) will determine within 75 days whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the subject merchandise. We will issue a countervailing duty order if the ITC issues a final affirmative injury determination. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR

351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act.

Dated: July 10, 2014.

Ronald K. Lorentzen,
Acting Assistant Secretary,
for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by the investigation is certain oil country tubular goods (“OCTG”), which are hollow steel products of circular cross-section, including oil well casing and tubing, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, regardless of end finish (*e.g.*, whether or not plain end, threaded, or threaded and coupled) whether or not conforming to American Petroleum Institute (“API”) or non-API specifications, whether finished (including limited service OCTG products) or unfinished (including green tubes and limited service OCTG products), whether or not thread protectors are attached. The scope of the investigation also covers OCTG coupling stock.

Excluded from the scope of the investigation are: casing or tubing containing 10.5 percent or more by weight of chromium; drill pipe; unattached couplings; and unattached thread protectors.

The merchandise subject to the investigation is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7304.29.10.10, 7304.29.10.20, 7304.29.10.30, 7304.29.10.40, 7304.29.10.50, 7304.29.10.60, 7304.29.10.80, 7304.29.20.10, 7304.29.20.20, 7304.29.20.30, 7304.29.20.40, 7304.29.20.50, 7304.29.20.60, 7304.29.20.80, 7304.29.31.10, 7304.29.31.20, 7304.29.31.30, 7304.29.31.40, 7304.29.31.50, 7304.29.31.60, 7304.29.31.80, 7304.29.41.10, 7304.29.41.20, 7304.29.41.30, 7304.29.41.40, 7304.29.41.50, 7304.29.41.60, 7304.29.41.80, 7304.29.50.15, 7304.29.50.30, 7304.29.50.45, 7304.29.50.60, 7304.29.50.75, 7304.29.61.15, 7304.29.61.30, 7304.29.61.45, 7304.29.61.60, 7304.29.61.75, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.29.10.30, 7306.29.10.90, 7306.29.20.00, 7306.29.31.00, 7306.29.41.00, 7306.29.60.10, 7306.29.60.50, 7306.29.81.10, and 7306.29.81.50.

The merchandise subject to the investigation may also enter under the following HTSUS item numbers: 7304.39.00.24, 7304.39.00.28, 7304.39.00.32, 7304.39.00.36, 7304.39.00.40, 7304.39.00.44, 7304.39.00.48, 7304.39.00.52, 7304.39.00.56, 7304.39.00.62, 7304.39.00.68, 7304.39.00.72, 7304.39.00.76, 7304.39.00.80, 7304.59.60.00, 7304.59.80.15, 7304.59.80.20, 7304.59.80.25, 7304.59.80.30, 7304.59.80.35, 7304.59.80.40, 7304.59.80.45, 7304.59.80.50, 7304.59.80.55, 7304.59.80.60, 7304.59.80.65, 7304.59.80.70, 7304.59.80.80, 7305.31.40.00, 7305.31.60.90, 7306.30.50.55, 7306.30.50.90, 7306.50.50.50, and 7306.50.50.70.

The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the investigation is dispositive.

Appendix II

Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Critical Circumstances
- IV. Subsidies Valuation Information
 - a. Period of Investigation
 - b. Allocation Period
 - c. Attribution of Subsidies
- V. Benchmark Interest Rates
- VI. Use of Facts Otherwise Available and Adverse Inferences
- VII. Analysis of Programs
 - a. Programs Found To Be Countervailable
 - b. Programs Found Not to Be Countervailable
 - c. Programs Found Not to Be Used
- VIII. Analysis of Comments
 - Comment 1: Treatment of Erdemir and Isdemir as Government Authorities
 - Comment 2: Distortion of Turkish HRS Market and Use of External Benchmark
 - Comment 3: The Department's World Market Price Benchmark
 - Comment 4: Averaging of Benchmark Prices for HRS
 - Comment 5: Specificity of HRS Program
 - Comment 6: Application of AFA to Borusan's HRS Purchases
 - Comment 7: The Department's Adverse Inference for Purchases by Borusan's Halkali and Izmit Mills
 - Comment 8: Purchases of OCTG-Qualified HRS
 - Comment 9: Verification of the HRS for LTAR Program at the GOT
 - Comment 10: Toscelik Sales Denominator
 - Comment 11: Provision of Land for LTAR
 - Comment 12: Provision of Electricity for LTAR / Law 5084: Energy Support Program
 - Comment 13: Export Financing Loans: Subtraction of Bank Guarantee Fees from Benefit
 - Comment 14: Specificity and Countervailability of the Investment Incentive Certificate Program

Comment 15: Basis for Affirmative Critical Circumstances Determination
Comment 16: Whether to Issue an Amended Preliminary Determination

[FR Doc. 2014-16860 Filed 07/17/2014 at 8:45 am; Publication Date: 07/18/2014]